

ESTTA Tracking number: **ESTTA163570**Filing date: **09/19/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following parties request to cancel indicated registration.

Petitioner Information

Name	El Matador Adobos, L.L.C.		
Entity	Limited Liability Company	Citizenship	Texas
Address	5813 Gardendale Drive Houston, TX 77092 UNITED STATES		

Name	Mr. Carlos R Prado		
Entity	Individual	Citizenship	MEXICO
Address	5813 Gardendale Drive Houston, TX 77092 UNITED STATES		

Attorney information	Raymond R. Ferrera Adams and Reese LLP 1221 McKinney, Suite 4400 Houston, TX 77010 UNITED STATES ray.ferrera@arlaw.com Phone:(713) 652-5151
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Registration Subject to Cancellation

Registration No	3082508	Registration date	04/18/2006
Registrant	Estlinbaum Enterprises, Inc. 410 Tapatio Dr. West Boerne, TX 78006 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2005/04/13 First Use In Commerce: 2005/04/13
All goods and services in the class are cancelled, namely: Restaurant and Bar Services, namely serving mexican, american, and tex-mex food and drink for dine-in and carry out

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Related Proceedings	None.

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application	77036752	Application Date	11/03/2006
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EL MATADOR ADOBOS EL MATADOR ADOBOS, L.L.C. SINCE 1997		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1997/01/01 First Use In Commerce: 1997/01/01 Marinades and sauces for beef, chicken and traditional Mexican foods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	EL MATADOR ADOBOS		
Goods/Services	Marinades and sauces for beef, chicken and traditional Mexican foods		

Attachments	77036752#TMSN.jpeg (1 page)(bytes) P31636US - Petition to Cancel.pdf (2 pages)(57932 bytes)
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Signature	/Raymond R. Ferrera/
Name	Raymond R. Ferrera
Date	09/19/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

El Matador Adobos, L.L.C.	§	Mark: EL MATADOR
and	§	
Carlos Rico Prado,	§	Registration No.: 3,082,508
<i>Petitioners,</i>	§	
v.	§	Atty. Docket No.: P31636US
Estlinbaum Enterprises, Inc.,	§	
<i>Respondent.</i>	§	Cancellation No.: _____

PETITION TO CANCEL

1. Petitioner, El Matador Adobos, L.L.C., is a limited liability company formed under the laws of the State of Texas, with a business address of 5813 Gardendale Drive, Houston, TX 77092.

2. Carlos Rico Prado is a principal of El Matador Adobos, L.L.C., and owner of U.S. Trademark Application No. 77 / 036,752 (hereafter, “the ‘752 application”) for the mark EL MATADOR ADOBOS, EL MATADOR ADOBOS L.L.C., SINCE 1997, as used in connection with “marinades and sauces for beef, chicken and traditional Mexican foods.”

3. Mr. Prado has been using the mark EL MATADOR ADOBOS throughout Texas and surrounding states continuously since 1997.

4. Respondent Estlinbaum Enterprises, Inc., is believed to be a corporation organized under the laws of the State of Texas, with a business address of 410 West Tapatio, Boerne, TX 78006, and proprietor of the subject registration of this Petition, viz.,

U.S. Reg. No. 3,082,508 (hereafter, “the ‘508 registration”), for EL MATADOR, as used in connection with “restaurant and bar services, namely serving Mexican, American, and Tex-Mex food and drink for dine-in and carry out.”

5. Petitioners have standing to file this Petition under T.B.M.P. § 309.03(b), as they believe they will be damaged if Respondent’s ‘508 registration is maintained because Petitioners’ ‘752 application stands refused in view thereof.

6. In accord with T.B.M.P. § 309.03(c), the grounds for cancellation is Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), viz., the Respondent’s EL MATADOR marks so resembles the Petitioners’ EL MATADOR ADOBOS mark, which has previously and continuously been used since prior to the Respondent’s date of first use, as to be likely, when used on or in connection with the services of the Respondent, to cause confusion, or to cause mistake, or to deceive.

7. In accord with T.B.M.P. § 309.03(d), Petitioners respectfully request that Respondent’s ‘508 registration be canceled in whole, and with respect to all services claimed in said registration.

Respectfully submitted,

SEPTEMBER 19, 2007
Date

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